

Sales to a governmental body are subject to tax unless the governmental body has an active exemption identification "E" number. See the 86 Ill. Adm. Code 130.2080. (This is a GIL).

April 6, 2000

Dear Xxxxx:

This letter is in response to your letter dated March 7, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

Enclosed please find a response issued by the Illinois Department of Revenue that I received regarding exempt documentation required in a drop shipment situation. I am hereby requesting a Private Letter Ruling from the Illinois Department of Revenue regarding the same situation outlined below:

We are a STATE corporation that is registered and filing in the state of Illinois. This inquiry involves sales of condoms to an exempt organization ['Bill To' organization] located in the state of Illinois. We directly ship to approximately 100 locations ['Ship To' organizations] in the state of Illinois on behalf of the 'Bill To' organization. We have obtained a letter addressed to the 'Bill To' organization from the state of Illinois, dated June 19, 1997, which states that the state has renewed their governmental exemption from payment of Illinois Sales Taxes as required by law effective January 1, 1995 providing an exemption identification number of #####. My questions follow:

1. Is a copy of this letter addressed to the 'Bill To' organization from the state of Illinois sufficient to exempt sales of condoms from Illinois sales tax regardless of the fact that we are shipping to 100 locations or does the state of Illinois require separate exemption certificates from each 'Ship To' organization?

Note that the AGENCY has told us that they are paying invoices and are not billing the various 'Ship To' locations. They believe that a copy of the letter that they have received from the state of Illinois should be sufficient documentation to exempt these sales.

2. If a copy of the letter addressed to the 'Bill To' organization from the state of Illinois is sufficient documentation to exempt these sales, is it valid? How often does the state issue these letters and do we need to request a more current one?

3. If a copy of this letter obtained by us from the 'Bill To' organization is not sufficient documentation to exempt these sales, from whom and exactly what documentation do we need to obtain?

Please call me at ##### if you have any other specific questions regarding the above.

In the situation you describe in your letter, you are an out-of-State company that has nexus with Illinois. Your customer ("Bill To" organization) is an Illinois governmental entity which is requesting that you ship the material directly to 100 locations in Illinois on their behalf. From the facts set forth in your letter, it appears that you are making a sale to the governmental entity and not to the 100 "Ship-To" locations.

Please note that organizations that make application to the Department and are determined to be exclusively religious, educational, or charitable, receive an exemption identification "E" number. See the enclosed copy of 86 Ill. Adm. Code 130.2007. This number evidences that this State recognizes that the organization qualifies as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of its organizational purpose. Sales to a governmental body are subject to tax unless the governmental body has an active exemption identification "E" number. See the enclosed copy of 86 Ill. Adm. Code 130.2080. If an organization or governmental body does not have an "E" number, then its purchases are subject to tax. Please be aware that only sales to the organization or governmental body holding the "E" number are exempt, not sales to individual members of the organization.

When making sales to exempt organizations, companies must retain a Certificate of Resale or be provided with an "E" number for a sale to an organization or governmental body to be tax exempt. For a sale to qualify as being to an exempt organization, the seller may not rely on an invalid exemption number, even if accepted in good faith. The burden of sustaining a right to a tax exemption is on the person (retailer) claiming that the sale is tax exempt. See the enclosed copy of 86 Ill. Adm. Code 130.2005, subsection (r), paragraph (3). A seller must ascertain the validity of the E numbers at the time of the sales transactions. These E numbers are valid for five years from issue date and this information is stated on the letter that issues the exemption.

In the case of the exemption number issued to the AGENCY, that number is active until March 1, 2005 when it will need to be renewed.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

ST 00-0079-GIL

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